

**WAUKESHA COUNTY BOARD OF ADJUSTMENT  
SUMMARY OF MEETING**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, January 11, 2012, at 6:30 p.m. in Room AC 255/259 of the Waukesha County Administration Center, 515 W. Moreland Blvd., Waukesha County, Wisconsin, 53188.

**BOARD MEMBERS PRESENT:** Robert Bartholomew  
Tom Day  
Richard Bayer  
Rob Schuett

**BOARD MEMBERS ABSENT:** Nancy Bonniwell  
Walter Schmidt

**SECRETARY TO THE BOARD:** Tom Day

**OTHERS PRESENT** Town of Merton Board of Adjustment  
(Rick Ray, Marge Kilpatrick, Don Herrick, William Timmer)  
Peggy S. Tilley, Senior Land Use Specialist  
Jeff Pollack, BA11:046, owner  
Suzanne Coggan, BA11:047, neighbor  
Greg Maniaci, BA11:048, agent  
Dianne & Vito Rago, BA11:047, owners  
Bill Timmers, BA11:047, builder

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use and a taped copy is available, at cost, upon request.

**SUMMARIES OF PREVIOUS MEETINGS:**

Mr. Day *I make a motion to approve the Summary of the Meeting of December 14, 2011.*

The motion was seconded by Mr. Bayer and carried with three yes votes. Mr. Schuett abstained from voting.

**NEW BUSINESS:**

**BA11:046 JEFF POLLACK AND STACIE NAPOLI:**

Mr. Day *I make a motion to approve the request, in accordance with the Staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report with the modification that the term "concrete slab" shall be replaced with "paver blocks."*

The motion was seconded by Mr. Bayer and carried unanimously.

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the shore setback, floodplain setback, and offset requirements of the Ordinance to allow the patio and associated retaining wall, and concrete slab with hot tub to remain on the property, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing all existing structures (including the concrete slab with hot tub, patio, and all retaining walls) must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
2. The concrete slab must comply with the required 6 ft. offset on the west side of the property. If the updated Plat of Survey reveals that the concrete slab is located closer than 6 ft. to the west lot line, it shall be modified to conform with the offset requirements.
3. The new patio and associated retaining wall shall not encroach on to the adjacent property to the east. If the updated Plat of Survey reveals that the patio and retaining wall encroach on to the adjacent property, they shall be modified so as to be located on the subject property.
4. The retaining wall associated with the patio shall be screened from view from the lake with vegetation. Prior to the issuance of a Zoning Permit, a detailed Landscaping Plan shall be submitted to the Planning and Zoning Division Staff for review and approval which provides adequate vegetation to substantially screen the wall from view from the lake. The approved Landscaping Plan shall be implemented by July 1, 2012.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request with the recommended conditions, will allow the existing patio with associated retaining wall and concrete slab with hot tub to remain on the property. The patio was constructed to replace an existing deck on the lakeside of the residence. The new patio extends several feet closer to the lake than the previously existing deck but is still appropriately sized for the lot. The retaining wall was necessary to accommodate the patio due to the slope of the property, it does not extend closer to the lake than the patio, and as conditioned, it will be substantially screened from view from the lake. Furthermore, due to existing vegetation, the east side of the patio with retaining wall is currently substantially screened from view from the adjacent property to the east. Due to the shoreline of the property, the concrete slab with hot tub is located further from the shore and floodplain than the new patio with retaining wall. No deck or patio could be constructed on the subject property without the need for variances. The property previously contained a deck and to deny the property owner any replacement deck or patio structure would be unnecessarily burdensome. As conditioned, the after-the-fact approval of the existing structures should not have an adverse impact on the general public interest or welfare. The approval of this request, as conditioned, would be within the purpose and intent of the Ordinance.

**BA11:048 ROBERT QUADRACCI (OWNER) GREG MANIACI (AGENT):**

Mr. Day

*I make a motion to approve the request, in accordance with the Staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report. Also note, the petitioner has indicated that the cost of the project will be approximately \$125,000 rather than the \$250,000 noted in the Staff Report.*

The motion was seconded by Mr. Schuett and carried unanimously.

The Planning and Zoning Division staff's recommendation was for **approval** of the request for variances from the shore setback, floodplain setback, and remodeling a non-conforming structure in excess of 50% of its equalized assessed value requirements of the Ordinance for the proposed addition, subject to the following conditions:

1. Prior to the issuance of a Zoning Permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
2. The proposed addition shall not extend closer to the shore and floodplain than as shown on the site plan submitted, dated November 23, 2011. The overhangs shall not exceed two (2) ft. in width.
3. Prior to the issuance of a Zoning Permit, a complete set of Building Plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
4. Prior to the issuance of a Zoning Permit, a detailed cost estimate for the proposed addition must be submitted to the Planning and Zoning Division staff.
5. Prior to the issuance of a Zoning Permit, an updated Plat of Survey showing all existing structures and the location of the proposed addition and any proposed retaining or garden walls in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
6. A detailed Grading and Drainage Plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a Zoning Permit. This is to ensure the construction of the proposed addition does not result in adverse drainage onto adjacent properties. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the Grading and Drainage Plan: a timetable for completion, the source and type of fill, a complete vegetative plan

including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage. The grading plan may be combined with the Plat of Survey required in Condition No. 5.

7. Any proposed retaining or garden walls shall comply with all Ordinance requirements.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request will allow the construction of an attached garage addition to the existing residence. The existing residence is a substantial structure that has been significantly added on to and remodeled in the past with the benefit of variances. Due to the steep, heavily vegetated slopes it would be detrimental to the property and unnecessarily burdensome on the property owner to require the existing residence to be removed and reconstructed in a more conforming location. Therefore, it is reasonable to grant a variance from the remodeling a non-conforming structure in excess of 50% of its equalized assessed value requirements of the Ordinance.

Although the existing residence does not meet the shore and floodplain setback requirements, the residence is located approximately 35 ft. above the shore and the proposed addition will be set back further from the shore and floodplain than the existing residence. To require that the proposed addition be offset from the existing residence by approximately 2 ft. to comply with the shore and floodplain setback requirements would be unnecessarily burdensome on the property owner. The construction of the proposed garage should require minimal tree removal as the area of the proposed garage is substantially open. Due to the existing wooded slopes, when constructed, the attached garage addition should be substantially screened from the lake by the existing vegetation. The approval of this request would not be contrary to the public interest. Therefore, the approval of this request would be in conformance with the purpose and intent of the Ordinance.

**BA11: 047 DIANNE RAGO (OWNER) BILL TIMMERS (AGENT):**

Mr. Day

*I make a motion to approve the request, in accordance with the Staff's recommendation, as stated in the Staff Report and for the reasons stated in the Staff Report.*

The motion was seconded by Mr. Bayer and carried unanimously.

The Planning and Zoning Division staff's recommendation was for **approval** of the request for a variance from the open space requirements of the Waukesha County Shoreland and Floodland Protection Ordinance to allow the construction of a new single-family residence with an attached garage on the property subject to the following conditions:

1. Prior to the issuance of a Zoning Permit for the new residence with attached garage, documentation shall be provided to the Planning and Zoning Division Staff that a recorded access easement or private right-of-way exists to provide access to the property. If no such

easement or right-of-way exists. An easement shall be obtained and documentation of such easement shall be provided to the Planning and Zoning Division Staff prior to the issuance of a Zoning Permit.

2. The existing detached garage, shed, and lean-to structure shall be removed from the property prior to the issuance of a Zoning Permit for the proposed residence.
3. Within 6 months of the issuance of a Zoning Permit for the new residence, the boathouse structure shall be removed and the area restored. Prior to the removal, the petitioner shall submit a detailed Landscaping Plan to the Planning and Zoning Division Staff for review and approval and shall obtain all necessary permits for the work proposed to restore the area. If it is not possible to remove the foundation of the boathouse without compromising the slope on the property, the foundation may remain but the area within and around the foundation shall be restored and vegetated to the greatest extent possible. Prior to the restoration/landscaping, the petitioner shall submit a detailed plan to the Planning and Zoning Division Staff for review and approval and obtain all necessary permits for said restoration/landscaping. The plans required in this condition shall be submitted within 6 months of the issuance of a Zoning Permit for the construction of the new residence and the approved work must be completed within 12 months of the issuance of a Zoning Permit for the new residence.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request, as conditioned, will allow the construction of a new single-family residence with an attached garage that is reasonably sized for the property and will result in the removal of four nonconforming structures. As conditioned, the footprint of the remaining structures will increase the amount of open space on the site by approximately 60 sq. ft. The proposed residence complies with all of the locational requirements of the Ordinance as well as the floor area ratio requirement. Due to the size of the nonconforming lot, requiring compliance with the open space requirements of the Ordinance would render the property unbuildable. Therefore, compliance with the Ordinance requirements would be unnecessarily burdensome on the property owner. The construction of a new residence with an attached garage and the removal of the existing structures will greatly improve the property as the current structures are in a deteriorated condition. The approval of this request will not have an adverse impact on the general public welfare and would be within the purpose and intent of the Ordinance.

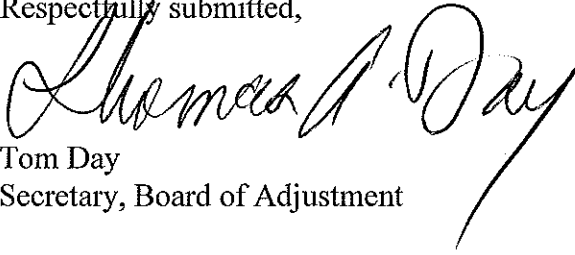
**OTHER ITEMS REQUIRING BOARD ACTION:** None.

**ADJOURNMENT:**

Mr. Day *I make a motion to adjourn this meeting at 7:28 p.m.*

The motion was seconded by Mr. Bayer and carried unanimously.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas A. Day". The signature is written in a cursive, flowing style with a long, sweeping underline.

Tom Day  
Secretary, Board of Adjustment